

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA §
§
v. § CRIMINAL NO. 4:05CR173.5
§
TOMMY DEBELL GRIFFIN §

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release.

After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on April 30, 2012, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Mandy Griffith.

On December 6, 2006, Defendant was sentenced by the Honorable Michael H. Schneider, United States District Judge, to a sentence of 78 months imprisonment followed by a 5-year term of supervised release, for the offense of conspiracy to possess with intent to distribute cocaine base and marijuana. Defendant began his term of supervision on June 27, 2011.

On March 1, 2012, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 880). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance; and (2) Defendant shall refrain from excessive use of alcohol and shall not

purchase, possess, use, distribute, or administer any controlled substances, except as prescribed by a physician.

The Petition alleges that Defendant committed the following violations: (1) On July 1, 2011, Defendant submitted a urine specimen at the U.S. Probation Office, Garland, Texas, that tested positive for cannabinoids. On July 18, 2011, Defendant admitted verbally and in writing to U.S. Probation Officer Luie Rodriguez that he used marijuana on June 17, 2011; (2) On July 11, 2011, Defendant submitted a urine specimen at Genesis Counseling Associates, P.C. (GCA), Dallas, Texas, that tested positive for cannabinoids. On September 15, 2011, Defendant admitted verbally and in writing to USPO Rodriguez that he used marijuana on July 11, 2011; (3) On August 3, 2011, Defendant submitted a urine specimen at GCA, Dallas, Texas, that tested positive for cannabinoids. On September 15, 2011, Defendant admitted verbally and in writing to USPO Rodriguez that he used marijuana on August 3, 2011; (4) On August 29, 2011, Defendant submitted a urine specimen at GCA, Dallas, Texas, that tested positive for cannabinoids. On September 15, 2011, Defendant admitted verbally and in writing to USPO Rodriguez that he used marijuana on August 29, 2011; (5) On October 17, 2011, Defendant submitted a urine specimen at the U.S. Probation Office, Dallas, Texas, that tested positive for cannabinoids. On January 27, 2012, Defendant admitted verbally and in writing to USPO Rodriguez that he used marijuana on October 17, 2011; and (6) On December 27, 2011, Defendant submitted a urine specimen at the U.S. Probation Office, Dallas, Texas, that tested positive for cannabinoids. On January 27, 2012, Defendant admitted verbally and in writing to USPO Rodriguez that he used marijuana on December 25, 2011.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation

of this Court. The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the April 30, 2012 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of six (6) months, with 36 months supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out in the Bureau of Prisons facilities located in Seagoville, Texas, if appropriate.

SIGNED this 10th day of May, 2012.


DON D. BUSH
UNITED STATES MAGISTRATE JUDGE